

Comm 83 Code Package Frequently Asked Questions (FAQ's)

May 18, 2001

Q. Is it true that an appeal of the Comm 83 lawsuit dismissal has been filed?

A. Yes, on April 09, 2001 an appeal was filed in the Dane County Court of Appeals.

Q. Are there new issues identified in the appeal?

A. No, the issues listed in the appeal remain the same.

- Whether the regulations adopted by the department ensure compliance with the state groundwater law.

- Whether the state Legislature constitutionally delegated discretion to the department to exempt onsite systems from having to meet the nitrate standard in the groundwater law.

- Whether the department has the general statutory authority to adopt a rule that allows variances for new construction sites.

- Whether the department has the authority to make enforcement of the groundwater standards discretionary rather than mandatory.

Q. So, what happens to the POWTS program while the appeal is being processed?

A. The POWTS program continues to operate in "normal mode". There should be no disruption in day to day operations while the appeal process continues.

Q. Table 83.44-2 in the revised Comm 83 code does not list single-grained fine sand. What soil application rate should be used when this type of soil is reported?

A. The soil application rate for single-grained fine sand that should be used is 0.5 gals./sq.ft./day for "septic tank quality" effluent and 0.9 gals./sq.ft./day for "pre-treated effluent" [Note: The soil application rate and minimum depth of unsaturated soil tables are being revisited by the Comm 83 code council that is working on revisions to the Comm 83 code.]

Q. Can a governmental unit (county) review a design for a proposed POWTS that will serve more than one structure?

A. No, Table 83.22-3 as currently written is very specific. The table limits governmental units to review of "POWTS that will serve a single one- or 2 family dwelling... and using gravity distribution of effluent to an in-ground distribution cell."

Q. What if a property owner has an existing POWTS serving their residence and now wants to add a toilet or some other plumbing fixture in a detached garage or other outbuilding?

A. The answer depends on the size of the existing POWTS, the change if any, in flows and loads generated by the new plumbing fixtures and whether the garage or outbuilding will be accessible to someone other than the property owner(s). [Note: The examples below do not include a detailed discussion about the installation of a private interceptor main sewer. Separate plan review is required if the interceptor main sewer is greater than 4" in diameter. Specific questions regarding private interceptor main sewers may be referred to the Division's general plumbing consultants and plan reviewers.]

- Example #1 A property owner installs a toilet for their own use in a detached garage near the residence. The flows and loads to the existing POWTS will not be changing. In that case, the county can make a determination of acceptability pursuant to s. Comm 83.25(2), Wis. Adm. Code, and process the request locally. POWTS plans do not need to be submitted to the department.

- Example #2 A property owner wants to build a small workshop that will contain a retail sales area open to the public. The plumbing fixtures in the workshop will be connected to the POWTS serving the residence via a private interceptor main sewer. If the existing POWTS is large enough to handle the anticipated loads and flows, the county can make a determination of acceptability pursuant to s. Comm 83.25(2), Wis. Adm. Code, and process the request locally. POWTS plans do not need to be submitted to the department. If it is determined that the POWTS system must be enlarged to handle the new loads and flows, then plans must be submitted to the department or designated agent, if applicable, for review.

- Q. So in other words, if there will be no modification to the existing POWTS, the county can make a determination of acceptability even though the end result will be two structures connected to a single POWTS?
- A. Yes, Table 83.22-3 applies to POWTS plans that are submitted for review. If there will be no modification to an existing POWTS, plan review for the POWTS is not required. Of course, the county may request other documentation that may include the issuance of a local permit to reflect the changes that have occurred on the site. Section Comm 83.25(2), Wis. Adm. Code, outlines the requirements for determination procedures and existing POWTS evaluations that are triggered by construction activities that may affect flows and loads. A determination may be based on submitted information as outlined in the section. If the information is incomplete, the county may request additional documentation prior to making a decision.
- Q. Is there any way for a county to be able to process applications for one- or 2 family POWTS designs that include a detached garage or other outbuilding that contains plumbing fixtures?
- A. At this time, the only way for a county to process these types of POWTS designs is to request approval as a designated plan review agent under the provisions of s. Comm 83.23, Wis. Adm. Code. Designated agents are authorized under the provisions of s. Comm 83.22(2)(b)5., Wis. Adm. Code, to review plans for POWTS that will serve more than one structure or building. [Note: The department will be discussing possible modifications to Table 83.22-3 as part of the Comm 83 revision process. Your ideas and suggestions are welcome.]
- Q. Can a governmental unit or designated agent review a POWTS design that will include treatment of industrial wastewater along with domestic wastewater once the Department of Natural Resources has approved the discharge of the industrial wastewater to the POWTS?
- A. No, Table 83.22-1 specifically limits review of this type of design to the department.
- Q. How is the department reviewing designs for POWTS that may handle “high strength waste” from facilities such as supper clubs, gas station convenience stores and bars that serve food?
- A. The department recognizes that designing POWTS systems for treatment of higher strength waste is a new requirement. Here are some guidelines:

- If the proposed POWTS is to serve an existing facility, the effluent can be sampled and analyzed to see if pre-treatment down to residential strength is necessary. It is important that the samples be taken when the wastestream is considered representative for the facility.
- For new facilities, data from a comparable facility may provide meaningful information in some cases. However, the department recognizes that each facility may differ based on things like type of food served, or sanitation practices. If there is concern that the wastestream may need pre-treatment, but there is no reliable way to predict this ahead of installation, the department may conditionally approve the POWTS design. The condition will be that once the facility is in operation, the wastestream will be sampled. If it is determined that pre-treatment is needed, the owner as condition of approval agrees to modify the POWTS to provide the necessary treatment components. The Department is developing a guidance document to assist Department staff in determining when and how monitoring of effluent should take place. This document will be shared with the counties and published in a future issue of the Plumbing Code Report.

- Q. Does the horizontal setback for Water Service and Private Water Mains in the column labeled Servicing, Suction Lines and Pump Discharge Lines in Table 83.43-1 have to be maintained for forcemains and other sewer lines serving soil based systems like mounds? Isn't this in conflict with the setback provisions listed in s. Comm 82.40(8), Wis. Adm. Code?
- A. No, the column labeled Servicing, Suction Lines and Pump Discharge Lines in Table 83.43-1 is for suction or discharge lines that serve holding tanks. [Note: Future code revisions will include clarification of the relationship of the various setback provisions identified in Table 83.43-1 and s. Comm 82.40(8), Wis. Adm. Code.
- Q. Can a county that has received department approval to review POWTS plans as a "designated agent" decline to review POWTS designs that meet one of the categories for which the designated agent has approval? For example, what if the designated agent prefers not to review a POWTS design due to complexity of the design or other circumstances?
- A. Section Comm 83.22(1)(c), Wis. Adm. Code states: "Plans for the types of POWTS delineated in Table 83.22-2 shall be submitted for review to the department or a designated agent." In addition, s. Comm 83.23(4)(b), Wis. Adm. Code, states: "...that submission and review of plans under s. Comm 83.22(1) may, at the discretion of the submitter, be made to the department or the designated agent." The code is silent on whether a designated agent can decline a request to perform a POWTS design review. A principle reason for the plan review function is to verify the adequacy of a proposed design in relationship to the soil and site conditions where it will be installed. If the designated agent is uncomfortable making that determination they may decline to perform the plan review and refer the applicant to the department. Allowing a POWTS plan review designated agent this type of discretion is consistent with other agent plan review programs administered by the Division.